

23 April 1974

MEMORANDUM FOR THE RECORD

SUBJECT: H.R. 12206, H.R. 13872, and H.R. 13303 -
Amendment and Freedom of Information Act

STATINTL

STATINTL 1. On 22 April 1974, [REDACTED] and the undersigned met to discuss the Agency's draft reply to the Chairman of the Foreign Operations and Government Information Subcommittee of the House Committee on Government Operations concerning the above bills.

2. H.R. 12206 and H.R. 13303 would create a new section under the Freedom of Information Act dealing with the handling of individual records. If enacted, the bills would require each agency that maintains records containing information on any person obtained from any source other than such person to refrain from transmitting the information to any other agency or any person not employed by the agency, or to the public, unless the person concerned, or his representative, is notified.

3. The bills would also require the agency to keep records of the names and addresses of all persons to whom any information on an individual is divulged, and the reasons therefor. Moreover, any person can inspect and make copies of his own record and also supplement the information contained in his record or remove erroneous information.

4. Records specifically required by Executive Order to be kept secret in the interest of the national defense and foreign policy as well as investigatory files compiled for law enforcement purposes are exempted from the bill.

5. As far as the Agency is concerned, the new bill would not apply to any information classified TOP SECRET, SECRET, or CONFIDENTIAL under the provisions of Executive Order 11652. It was our opinion, however, that these bills should not apply to any information which the DCI has the statutory responsibility to protect under Section 102 (d)(3) of the National Security Act of 1947, to-wit: protection of intelligence sources and methods from unauthorized disclosures. Therefore, in our reply, the Agency would request amending exception (b)(1) in both bills to provide that this section shall not apply to records that are specifically protected by statute or required to be kept secret in the interest of national defense and foreign policy. If this change is accepted, it appears that the vast majority of Agency records would be protected.

6. The bills also require an annual report to Congress on an agency-by-agency basis on the number of records exempted by Executive Order. We felt that if we could not obtain an exemption from this requirement, we would try to work up an arrangement with our subcommittees that a report to the subcommittee would constitute a report to Congress.

7. H.R. 13872 would amend Title 5, U.S.C., to provide for privacy of records on individuals maintained by Federal agencies. The bill would not apply to records required by an Executive Order to be kept secret in the interest of national defense or foreign policy and the disclosure of which would (1) endanger the active military plans or deployment of United States forces, (2) reveal details about current military technology or weaponry, or (3) endanger the life of any person engaged in foreign intelligence gathering operations of the United States Government.

8. It was felt that the above exceptions were too narrow for Agency purposes. Accordingly, our reply also would request the exemptions to be reworded to contain the language proposed for H.R. 12206 and H.R. 13303.

9. A copy of the draft reply is attached.

STATINTL



Assistant General Counsel

cc: OLC ✓